UNITED
NATIONS

CAT

Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment

Distr.
GENERAL

CAT/C/SR.242/Add.1
27 November 1995

Original: ENGLISH

COMMITTEE AGAINST TORTURE

Fifteenth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 242nd MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 23 November 1995, at 10.50 a.m.

Chairman: Mr. DIPANDA MOUELLE

CONTENTS

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (continued)

Second periodic report of Colombia (continued)

* The summary record of the first part (closed) of the meeting appears as document CAT/C/SR.242.

This record is subject to correction.

Corrections should be submitted in one of the working languages. They should be set forth in a memorandum and also incorporated in a copy of the record. They should be sent within one week of the date of this document to the Official Records Editing Section, room E.4108, Palais des Nations, Geneva.

Any corrections to the records of the public meetings of the Committee at this session will be consolidated in a single corrigendum, to be issued shortly after the end of the session.

GE.95-14588 (E)

The public part of the meeting was called to order at 10.50 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION (agenda item 4) (continued)

Second periodic report of Colombia (continued) (CAT/C/20/Add.4)

1. At the invitation of the Chairman, Mr. González, Ms. Carrizosa and Mr. Sandoval (Colombia) took seats at the Committee table.

2. Mr. GIL LAVEDRA (Country Rapporteur) read out the conclusions and recommendations of the Committee on the second periodic report of Colombia:

"Conclusions and recommendations of the Committee against Torture

COLOMBIA

1. The Committee considered the periodic report of Colombia (CAT/C/20/Add.4) at its 238th and 239th meetings on 21 November 1995 (see CAT/C/SR.238 and 239) and adopted the following conclusions and recommendations.

A. Introduction

2. The Committee thanks the State party for submitting its periodic report, which generally conforms to the Committee's guidelines. Furthermore, it recognizes the frankness and sincerity of the good oral report provided by the government representatives, at the same time acknowledging the difficulties impeding the reduction of the practice of torture. The replies to the concerns of the Committee were also open and made in a constructive spirit.

B. Positive aspects

3. The Committee notes that the new Constitution of Colombia contains various provisions which are very satisfactory from the standpoint of human rights and the mechanisms for their protection: prohibition of torture, regulation of habeas corpus, functions of the Attorney-General and the Ombudsman, and precedence of international human rights treaties over national legislation.

4. The Committee notes the increase in the penalty for the offence of torture provided for in article 279 of the Penal Code.

5. The Committee draws particular attention to the establishment of the Office of the Attorney-General for the Defence of Human Rights.

C. Factors and difficulties impeding implementation

6. The Committee is aware that the general climate of violence caused by the guerrilla warfare, drug trafficking and groups of armed civilians restricts effective enforcement of the Convention in Colombia.

7. The Committee considers that the almost total lack of penalties for persons responsible for torture constitutes an obstacle to the implementation of the Convention.

8. The Committee appreciates that the copious emergency legislation and the inadequate functioning of the judiciary also make it difficult to implement the Convention.

D. Subjects of concern

9. The Committee observes with great concern the persistence of a large number of violent deaths and cases of torture and ill-treatment attributed to members of the army and the police, in a manner which would appear to indicate a systematic practice in some regions of the country.

10. The Committee emphasizes with regret that the State party has not yet brought its domestic legislation into line with the requirements of the Convention, as was suggested by the Committee when it received the initial report of Colombia, particularly with regard to the obligations under articles 2, concerning due obedience, 3, 4, 5, 8, 11 and 15 of the Convention.

11. The Committee notes with concern that the light penalties for the offence of torture in the Code of Military Justice do not seem to be acceptable, nor does the extension of military jurisdiction to deal with ordinary crime by means of inadmissible expansion of the concept of active service and the enactment of provisions which seriously limit the effectiveness of the means of protecting rights, such as habeas corpus.

12. The Committee considers that the Government has made virtually constant use of a tool such as the state of internal disturbance, which, given its seriousness and pursuant to the Constitution, should be exceptional. Moreover, provisions continue to be adopted which the highest courts of the State have already found to be in violation of constitutional rights.

13. The Committee also views with concern the powers of the regional courts, in particular the non-identification of witnesses, judges and prosecutors. The detention of civilians in military units likewise gives cause for concern.

E. Recommendations

14. The Committee recommends that the practice of torture should be ended forthwith and to this end suggests that the State party should act with great firmness to regain the State monopoly over the use of force, disbanding all armed civilian or paramilitary groups, and ensure that swift and impartial investigations into allegations of torture are conducted immediately and that informers and witnesses are protected.

15. The Committee believes that the situation of impunity must be terminated, by adopting the necessary legislative and administrative amendments to ensure that military courts only judge violations of

military regulations, punishing torture by means of penalties commensurate with its seriousness and dispelling any doubt as to the responsibility of anyone who obeys an illegal order.

16. The Committee also suggests bringing domestic legislation into line with the obligations of the Convention with regard to the non-return or expulsion of anyone who fears being subjected to torture, the extraterritorial and universal application of the law, extradition and the express invalidity of evidence obtained under torture.

17. The Committee considers that the State party should keep under systematic review the rules, methods and practices referred to in article 11 of the Convention, conduct human rights education and training programmes for military, police, medical and civilian guard personnel, and establish appropriate systems of compensation and rehabilitation for the victims.

18. The Committee would be pleased if the State party were to make the declaration under article 22 of the Convention and offers such assistance and cooperation as the State party may require."

3. Mr. GONZALEZ (Colombia), thanking the Committee for its efforts, said that his delegation had taken due note of the recommendations and would bear them closely in mind. Colombia was endeavouring to bring its domestic legislation into line with international human rights instruments.

4. Of particular importance, in his view, was education on human rights in military units and prisons. Colombia was working on that matter intensively. Some progress had also been made in disseminating human rights law. Colombia had concluded a contract with the International Committee of the Red Cross for the dissemination of humanitarian law in the more remote parts of the country. In that connection, it was worth noting that the National Congress had ratified Protocol II Additional to the Geneva Conventions, an important step forward. It was to be hoped that all those who committed violence in Colombia, whether armed groups, paramilitary forces or State officials, would comply with the international obligations entered into by Colombia.

5. His Government had established a committee at the highest ministerial level, including the Attorney-General, the Procurator-General, the Ombudsman and one NGO, to act on the recommendations of the thematic special rapporteurs. Colombia intended to report back to the Commission on Human Rights and the Committee against Torture on progress made in that regard.

6. Colombia was committed to seeking the cooperation of the international organizations and hoped that the Committee would soon learn that its recommendations had been put into effect.

7. The CHAIRMAN said that the Committee was fully aware of Colombia's spirit of cooperation. Its discussion with the delegation had shown exactly where the human rights problems in Colombia lay. The Committee remained at Colombia's disposal for further dialogue.

The meeting rose at 11.05 a.m.